

Appln. No.: 09/474,492
Amdt. Dated November 3, 2003
Reply to Office Action dated August 1, 2003

Remarks/Arguments

Claims 1-24 are currently pending in the application. Claims 1 and 13 have been amended for clarification purposes. It is submitted that the instant amendment only expressly sets forth what the term "refund account" would mean to one possessing ordinary skill in the art based on a reading of the specification. In any event, claims 1 and 13 now expressly recite that the refund account tracks the refund activity of a particular buyer and is not a general funding account from which funds can be transferred into or out of.

As a preliminary matter, Applicants object to the lack of an expedited prosecution in connection with this matter. The instant application was rejected three times in view of the Rose reference. Each time the Applicants submitted similar arguments as to why Rose did not anticipate or render the claimed invention as being obvious. It was only after a Brief on Appeal was filed that the Examiner withdrew the rejections based on Rose and performed new searching to establish the new rejections of record set forth in the instant Office Action. Under the USPTO policy and procedures, this type of extended prosecution is not looked upon with favor. Applicants respectfully request that the Examiner keep in mind the USPTO's policy of expedited prosecution.

Claims 1, 4-6, 9-13, 16-18, and 21-24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Barber (US 6,349,288). This rejection, as it may be applied to the amended claims, is respectfully traversed.

As previously advised, the instant invention is directed to a refund system in which a reserve account tracks the refund activity of a particular buyer. In particular, independent claims 1, 12, 13, and 24 each set forth that the refund account actually accounts for the cost associated with each refund that is given to a buyer. By tracking the total refunds for a specific buyer, a threshold value can be established to determine

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when no further refunds should be given to a specific buyer (claims 2 and 14). If the refund account reflects that the threshold value for total refunds has been exceeded, the buyers vault can be rendered inactive. Thus, no further refunds or purchases by the buyer would be allowed.

The Applicants have provided a great deal of argumentation in connection with the deficiencies of the Rose reference with respect to the claimed refund account and now the Examiner submits that Rose teaches such a refund account. However, such is not the case. Rose, at column 4 lines 48-50 explains that the server 13 keeps track of **how often the particular consumer has requested a refund, and how often the information vendor 22 has granted refunds**. The server 13 does not track the costs associated with the refunds as claimed. Further, as set forth in Barber at column 4 lines 46-47 and column 5 lines 9-14, the consumer sends an explanation as to why a refund is desired and the vendor grants or denies the refund request based on the explanation. It is clear in Barber that the refund decision resides each time with the vendor. The instant invention eliminates this case by case refund analysis by setting a threshold of refund costs that cannot be exceeded. If the threshold is not exceeded the refund is automatically given. If the threshold is exceeded, the buyers vault is rendered inactive thereby precluding any further procurements and refunds.

In view of the above, it is submitted that the automatic self-regulating refund account mechanism set forth in the independent claims is neither anticipated by nor rendered obvious in view of Barber. The Examiner takes Official Notice that taking funds from one account and transferring them to another is a standard bookkeeping practice. However, this is not germane. Funds are not taken from the refund account. Rather the refund account tracks previously provided refunds thereby effectively tracking a total refund activity for a specific buyer. This concept is neither taught nor suggested by Barber. While Barber (col. 5, lines 17-19) does make reference to the fact that the refund server can monitor the refund granting and requesting activities of the vendor and consumer, that is all it states. No details are provided as to what is tracked or how

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that information would be used. Clearly, the claimed refund mechanism is not suggested since this would teach away from Barber's teachings of ensuring that the vendor determines whether to give a refund in each particular instance.

Independent claims 4-6, 9-11, 16-18, and 21-23 are considered patentable based on their dependency from their respective independent claim. Further, the Examiner rejects claims 4-6 without rejecting claims 2-3 from which each of claims 4-6 depends. Similarly, claims 16-18 have been rejected without claim 15 being rejected. Claims 16-18 all depend from claim 15. Finally, in connection with claims 9-11 and 21-23, the Examiner repeatedly uses the rationale that certain claimed steps are "possible results" of descriptions set forth in the Barber specification. However, it is incumbent on the Examiner to provide references teaching the claimed elements and not to hypothecate as to "what possibly" a reference might be teaching.

Claims 2, 3, 7, 8, 14, 15, 19 and 20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Barber in view of Rose. Each of these claims depends from one of independent claims 1 and 13. As discussed above, Barber fails to teach the claimed refund account. Further, the Examiner has admitted that Rose fails to teach the claimed reserve account since the previous rejections were all based on Rose and the Examiner withdrew those rejections. Accordingly, it is submitted that claims 2, 3, 7, 8, 14, 15, 19 and 20 are neither anticipated by nor rendered obvious in view of Barber and Rose. Additionally, Applicant incorporates by reference all previous arguments made concerning the deficiencies of Rose.

The Examiner is advised that an Information Disclosure Statement was submitted on June 3, 2003. An initialed copy of the PTO-1449 Form is respectfully requested in the next office action.

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It is submitted that the Application stands in condition for Allowance. Reconsideration of the rejections is respectfully requested and an early notice of allowance is earnestly solicited.

Respectfully submitted,



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